

VERNER · LIIPFERT
BERNHARD · McPHERSON & HAND
CHARTERED

901 - 15TH STREET, N.W.
WASHINGTON, D.C. 20005-2301
(202) 371-6000
FAX: (202) 371-6279

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

WRITER'S DIRECT DIAL
(202) 371-6000

February 7, 2000

VIA HAND DELIVERY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

**Re: Comments of the Division 1-A Athletic Directors Association
 in CS Docket No. 00-2**

Dear Ms. Salas:

Enclosed for filing please find the original and nine (9) copies of the Comments of the Division 1-A Athletic Directors Association in the above-referenced docket.

Please stamp and return to this office with the courier the enclosed extra copy of this filing designated for that purpose. Please direct any questions that you may have to the undersigned.

Respectfully submitted,



Philip R. Hochberg

Enclosures

019

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Matter of:)
)
Implementation of the Satellite Home)
Viewer Improvement Act of 1999)
)
Sports Blackout Issues)

CS Docket No. 00-2

COMMENTS OF

DIVISION 1-A ATHLETIC DIRECTORS ASSOCIATION

The Division 1-A Athletic Directors Association (hereinafter "Athletic Directors" or "Association") hereby files the enclosed Comments before the Federal Communications Commission in CS Docket No. 00-2, dealing with sports blackout issues.

The Association is an organization composed of the Directors of Athletics of the 112 largest universities engaged in intercollegiate athletics on the NCAA Division I-A level. The role of the Association is one of service and support on issues of common concern, including issues of national policy affecting athletics, for the Directors of Athletics at each of the member institutions.

The Athletic Directors note that part of the purpose of the Notice of Proposed Rulemaking is to protect against the importation of "same game telecasts" which might be transmitted by satellite carriers to subscribers within the market where the game is being played. Two circumstances could occur:

- (a) if the game is being televised locally, then it should be subject to network non-duplication under a regulation similar to Section 76.92 of the Commission's Rules;

- (b) if the game is not being televised locally, then it should be subject to sports blackout under a regulation similar to Section 76.67 of the Commission's Rules.

Although both of these rules would be applicable to nationally distributed superstations, the latter may be applied to network stations, as well. The Association supports this application.

College sports generally blackout fewer games than the professional leagues.

Nevertheless, when the Commission adopted its sports blackout rule in 1975, it did not limit the gate protection to professional sports. As the Commission said:

Although...[our] discussion focuses on professional team sports, the need to maximize live audiences is shared by all spectator sports, intercollegiate and interscholastic as well as professional, and individual as well as team sports. Therefore, our rule will apply to all sports telecasts where the event is not exhibited on local conventional television stations.

Report and Order in In re Amendment of Part 76 of the Commission's rules and Regulations Relative to Cable Television Systems and the Carriage of Sports Programs, 54 FCC2d 265, 282, 34 RR2d 683, 702 (1975). A game televised pursuant to a conference-wide contract will usually have the blackout lifted at the site of the game, whether it is sold out or not. However, there can be interconference or intersectional games where the visiting team may have sold its rights to a station local to its market – a network-affiliated station or a nationally distributed superstation. Under those circumstances, where the game is not being televised over the air at the game site, it should be blacked out. The Athletic Directors support the extension of Section 76.67 to those circumstances.

The Athletic Directors note the heavy burden that satellite carriers must shoulder to be exempted from the Section 76.67-type regulation for the carriage of network stations. Section 339(b)(1)(B) requires that any showing must "entail a very serious economic threat to the health of the carrier." Joint Explanatory Statement, 145 Cong. Rec. at H11796 (November 9, 1999). It

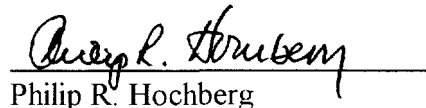
is not sufficient for the carrier to simply show the inconvenience, the difficulty, or the cost; it must be shown that the burden would, for all intents and purposes, put them out of business.

Moreover, the Athletic Directors urge that the Commission extend the rule to cover what might be termed "new" superstations, independents which may be satellite-delivered in the future. In sum, the Athletic Directors propose that Section 76.67-type protection be applied to any satellite-delivered station.

The Athletic Directors also support the concept discussed by the Commission in Paragraph 33. Under the current law, a satellite carrier could put together its own version of the early rounds of the NCAA Basketball Championship in March, creating a new distant signal/ compulsory license package in competition with rights sold by the NCAA. Such an opportunity is unwarranted and unjustified.

Respectfully Submitted,

DIVISION 1-A ATHLETIC DIRECTORS
ASSOCIATION

A handwritten signature in dark ink, appearing to read "Philip R. Hochberg", is written over a horizontal line.

Philip R. Hochberg

Its Attorney

Verner, Liipfert, Bernhard, McPherson & Hand
901 15th St., NW, Suite 700
Washington, D.C. 20005
(202) 371-6244